

"Recreational Boating in Florida: The Issues of Public Access, Water Quality, and Policymaking."

Managed Anchorage and Mooring:
The Ends to the Means.

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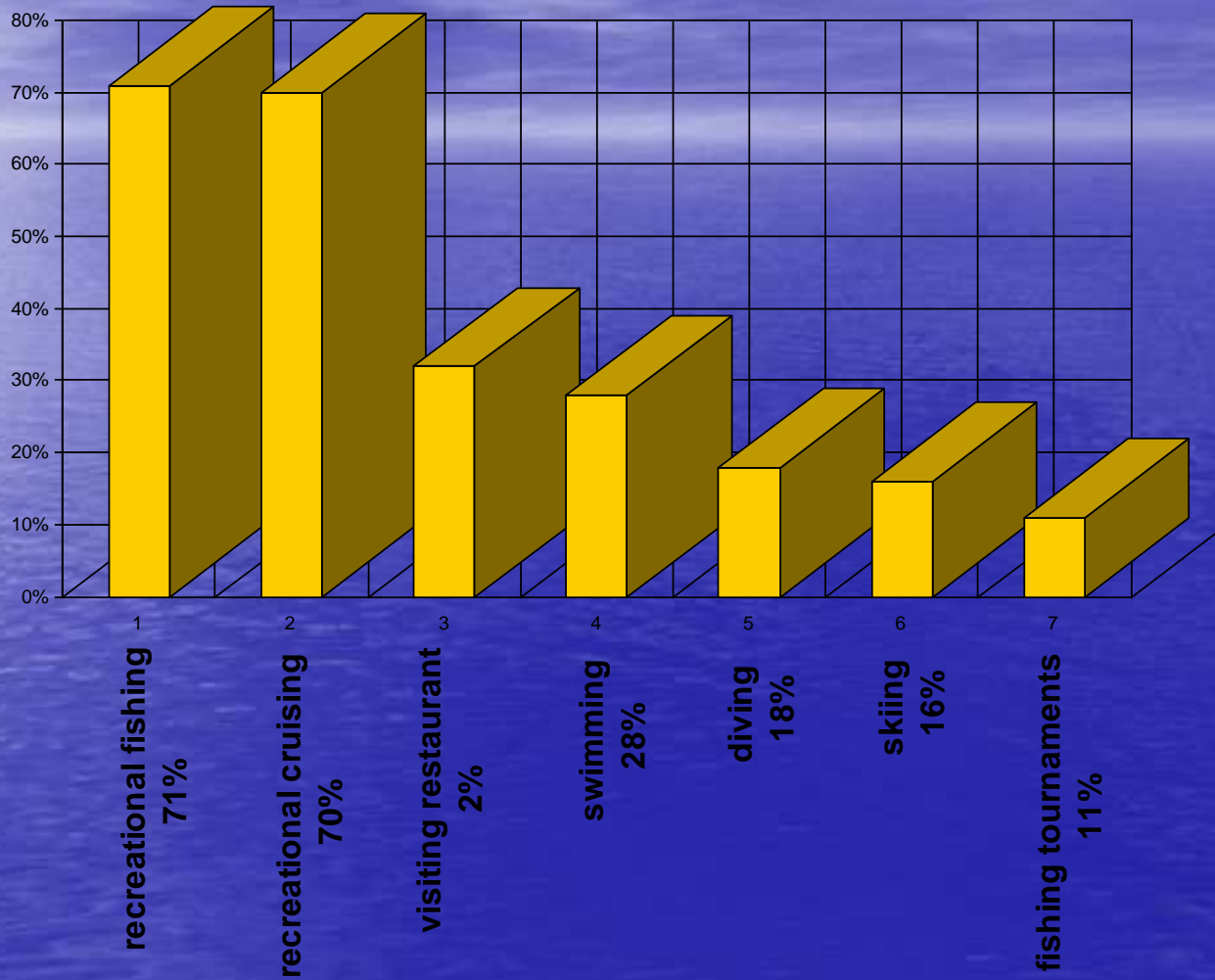
The Issues:

- While Florida continues to register nearly 1 million boaters per year, Managed Anchorage and Mooring Fields (MAMF) may be the best answer to public issues associated with recreational boating in Florida.
- How do state and local governments reconcile the conflicts of boater navigational interest while protecting the coastal environment and waterfront land use concerns?

Recreational Boating Concerns

- Public Access
- Lack of docking/storage & launching facilities
- Access to upland amenities
- Long and short term mooring, anchorage and overnight parking
- Pump out services
- Safety in storm events
- Compliance with state regulation (uniformity)
- Uniform navigation markers

2006 Florida Recreational Boating Survey: Popular Activities on the Water



Environmental Concerns

- Water Quality

- illegal dumping of waste from moored boats

- Natural Resource Protection

- anchor damage results in lost sea grass beds and coral reefs

- toxins and turbidity degrade benthic properties

Governmental Concerns

- Economic development – upland amenities, water dependent and water related business viability
- Management-removal of derelict of abandoned vessels
- Health, Safety and Welfare of Citizenry-
Storm events waterway traffic safety
- State vs. local jurisdiction

Challenge: Jurisdiction

- A very important legislative proposal to Ch. 327 F.S. is currently in the works. A number of public meetings are being held across the state under the supervision of the Florida Fish and Wildlife Conservation Commission (FWC). These meetings are well attended and highlight the need for uniform state policy. Presently, a number of counties and municipalities in Florida have differing regulations and policies; this leads to confusion and litigation, seemingly undermining the almost \$ 40 billion in positive economic impact annually.

New Anchoring laws

- In 2006, the state adopted new anchoring laws (H.B. 7175; chapter 2006-309) which provided:

The ONLY way that a Florida municipality may legally enforce local anchorage regulations is by establishing a STATE APPROVED mooring field.

Further, except in designated mooring fields, municipalities have **no authority** to regulate where a typical cruising vessel anchors, unless they can prove the vessel is not used for anything other than a residence or place of business.

Localities may not regulate “the anchoring of **non-live-aboard** vessels outside of the marked boundaries of mooring fields permitted as provided in s. 327.40, **except** as provided in s.327.61.”

New § 327.61: Anchoring, local regulation. – Without regard to whether or not a local government has a managed mooring field, that local government may pass an ordinance to prohibit vessels from anchoring within its jurisdiction for more than 30 consecutive days or for more than a total of 120 days in a year.”

More details:

- The statute does *not* allow a locality to regulate anchoring by redefining a vessel as a “live-aboard vessel” after an arbitrary time limit.
- A locality may *not* establish anchoring set-back requirements from docks, seawalls, or homes.
- Any area restricting anchoring must be **permitted**, and **marked** by approved signage or buoys, as required by Statutes 327.40 and 327.41.

Restricted areas may only be established after consultations between municipalities, Florida Fish and Wildlife Conservation Commission (FWCC), and the U.S. Coast Guard to ensure that restrictions comply with state and federal regulations.

Localities are prohibited from placing any regulatory markers in, on, or over the waters of the state or its shores without a permit from the state.

And...IF and HOWEVER...

- § 327.61 (2)...

If (and only if)

a local government has a managed mooring field, and if it makes a determination that further anchoring restrictions are necessary to protect the **public health, safety, and welfare** within the jurisdiction, the local government may enact an ordinance that prohibits anchoring for more than 3 consecutive days or for more than a total of 10 days in a calendar year.

However,

the ordinance **cannot take effect** until FWC determines that there are **enough** public moorings to meet the needs of local and transient boaters...

The term "public moorings" means mooring buoys, dock slips, and wharfage berths that are available for rental or lease by the general public on a first come-first served basis. The term does not include facilities that store vessel on land.

And So...

The FWC ordered a study of stakeholder concerns, specific to unregulated anchoring and mooring, and staff presented the following issues to commission:

- The accumulation of anchored vessels in inappropriate locations.
- Unattended vessels.
- Vessels with no anchor watch (dragging anchor, no lights, bilge).
- Vessels which are not properly maintained.
- Vessels ignored by owners that tend to become derelict.
- Confusion with the interpretation of statutes that provide jurisdictional guidance for local governments which has caused inconsistent regulation of anchoring/mooring fields on state waters and confusion among the boating community.

FWC Staff Recommendations:

- 1) **Develop a model anchoring/mooring ordinance** that local governments could adopt. If the Legislature approves allowing local government more authority to regulate anchoring, development of a model anchoring/mooring ordinance would help ensure uniformity and consistency in anchoring and mooring regulations statewide.
- 2) **Clarify State and local authority to regulate vessels.** The premise here would be to address the issues of unregulated anchoring, waterway management, and local government authority. It would allow cleanup language for some of the more confusing boating statutes.

Examples of this approach include combining and clarifying sections 327.22 (Regulation of Vessels by municipalities or counties), 327.40 (Uniform waterway markers for safety and navigation; informational markers), 327.41 (Uniform waterway regulatory markers), 327.46 (Restricted areas), 327.60 (local regulations; limitations), Florida Statutes and rule 68D-22 (Uniform Waterway Markers in Florida Waters), Florida Administrative Code.

State vs. Local Authority

- The Commission instructed staff to move forward with recommendation (2) and pursue legislative approval for statutory changes during the 2009 Legislative Session.

This work developed sixteen policy recommendations. They review incorporated issues related to regulating anchoring and mooring in state waters, local authority for vessel management and the establishment of boating restricted areas and signage, and cleanup of certain boating statutes within Chapter 327 F. S.

The Practicum: the ends to the means

1. Create a Recreational Boating Master Plan-meeting the needs of the recreational boater and waterfront communities while preserving and protecting the environment.
2. Develop a process to serve as a model for designated Waterfront Florida Partnership Communities to create their own Boating Master Plans.

Action:

- Begin a series of public meetings which invite stakeholders to participate in the policymaking, design, and management of public boating facilities in the community.
- This consensus-based process would evolve in stages, beginning very locally in a “**conversation**” atmosphere, and ending with input from local and state interest groups and agencies.

First Meeting: A “Conversation”

TIME: October 27, 2008 at 6:00p.m.

LOCATION: Bradenton Beach City Hall

An informal “**conversation**” to garner interest in public access improvements for non-motorized boaters and the creation of a local board of stakeholders to develop a Harbor Management Plan (HMP) and possible Managed Mooring and Anchorage Field (MAMF).

Stakeholders:

- Recreational boaters

Live-aboards, sail-boaters, canoe and kayak users, and other motorized and non-motorized recreational boaters

- Waterfront property owners

- Municipal elected officials

- Water related and Water dependent business owners

Harbor Management Plan (HMP)

Basic Principles:

- An HMP should be based on objective data obtained by inventories of natural and cultural resources.
- The plan should be built through consensus and involve **stakeholders from around the state**.
- The local board should define the job description for a harbormaster; he/she will implement the harbor management plan.
- The HMP should focus on providing adequate space via moorings or anchoring areas both for transient boaters and for safe shelter during storm events.
- The HMP should provide for a dinghy dock and on-shore facilities for boaters.
- The HMP should provide for signage in the harbor.
- The board should inquire into funding mechanisms for harbor signs, moorings, improvements and amenities (dinghy dock, showers, laundry facilities, etc.).
- Try to get Special Anchorage Designation.
- Create a dispute resolution mechanism.
- Obtain the right to use the submerged lands.

Stakeholders-private and public

Private

- Marine Industries Association of Florida
- Anna Maria Island Power Squadron
- Bradenton Yacht Club
- Sarasota Sailing Squadron
- Bird Key Yacht Club
- Charlotte Harbor Yacht Club
- Captiva Island Yacht Club
- Southwinds Magazine
- Manatee Sail & Power Squadron
- National Marine Manufacturer's Assoc.
- Seven Seas Cruising Assoc.
- Sail Miami (magazine)
- Salty Southeast Cruisers

Public

- Local Coast Guard Station, Cortez, FL
- Bradenton Beach Police
- Manatee County, Board of County Commissioners
- Florida Wildlife Commission
- Sarasota Bay Estuary Program
- Save the Manatee
- Florida Institute of Saltwater Heritage

“The Ends to the Mean”

In Conclusion,

- The **current conflicts** surrounding recreational boating, state and local government waterway jurisdiction and their effect on the environment require **coordinated solutions**. These solutions will be more successful if they evolve through **consensus driven processes** that involve the users, managers and protectors of our local waters.
- Since *Waterfronts Florida Partnership* communities are committed to the principles of **planning**, cultural and historical protection, **hazard mitigation**, economic development and **resource protection**, the development of **managed mooring fields** and **harbor management plans** are a natural extension of their efforts.